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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
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ART UNIT	**PAPER NUMBER**
3663	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/784,263	MURAMATSU ET AL.	
	Examiner	Art Unit	
	Jonathan M. Dager	3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 October 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8* is/are pending in the application.

4a) Of the above claim(s) *1-4* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *5-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Remarks

Applicant's election without traverse of Group II (claims 5-8) in the reply filed on 01 October 2007 is acknowledged.

Claims 1-4 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 01 October 2007.

Response to Arguments

Applicant's arguments, see pages 7-8, filed 09 July 2007, with respect to the rejection of claim 5 under 35 U.S.C. 112, 2nd paragraph, have been fully considered and are persuasive. The rejection of claim 5 under 35 U.S.C. 112, 2nd paragraph has been withdrawn.

Applicant's arguments with respect to all other claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

The objection to claims 5-8 submitted in the non-final office action issued from this office, dated 25 January 2007, has been withdrawn. A new search was performed, and a new rejection is warranted. Any inconvenience is sincerely regretted.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prabhakaran (US 5,922,040) in view of Jones (US 5,623,260).

Regarding claims 5-8, Prabhakaran discloses a fleet management system in which implements a graphical user interface user apparatus 1508, having a display and user interface such as a keyboard. The system also uses a main process manager 1501 operably coupled to the display 1508 through a central processor. The child processes include a current report receiver 1503 operably coupled to the display through said central processor, and a history report receiver 1505 operably coupled to the display through the central processor. The child processes are also each operably coupled to a mobile information center, which provides vehicle position data and the like. This vehicle position data are received and transmitted to a fleet of vehicles (e.g., couriers, etc.) through the mobile information center (abstract)

Further, the map display may contain icons of the vehicles sending information. These icons 520 show the position of the vehicles identified in the vector information

table 528. But it will be recognized that the icons can also represent any mobile entities such as automobiles, vans, trucks, ambulances, animals, people, boats, ships, motorcycles, bicycles, tractors, moving equipment, trains, courier services, container ships, shipping containers, airplanes, public utility vehicles, telephone company vehicles, taxi cabs, buses, milk delivery vehicles, golf carts, beverage delivery vehicles, fire trucks and vehicles, hazardous waste transportation vehicles, chemical transportation vehicles, long haul trucks, local haul trucks, emergency vehicles, and the like. The icons can represent any mobile or potentially mobile entity or the like (column 4 lines 36-49).

Thus, the invention of Prabhakaran discloses a central management center, and said center can track a multitude of vehicles. These vehicles can be buses, courier services, or any vehicle configured to send information about itself.

Next, based upon the times, dates, and pick-up and delivery locations, the route selection method chooses (step 1305) a route for the order(s). In particular, the route selection method scans the history of selected routes including fixed and alternative routes, and determines which fixed route (or alternative route) has less stops and traffic congestion based upon the historical data at a selected time (column 38 lines 37-43) .

Prabhakaran, for purposes of example, chooses to use a delivery service to illustrate the invention. One of ordinary skill in the art at the time of the invention would easily see how the invention is applied to tour buses, i.e. "pick up and delivery locations" are translatable to the "getting-on/off" point specified in the claim language. Further, the

above citation provides that multiple routes can be selected from a predetermined list and tailored to individual need.

As shown by figure 1, the central manager can receive wireless updates from the vehicles desired. The reports include location and timing of the vehicles reporting in.

Figure 3 clearly shows the mobile terminal used in each vehicle, including wireless means of communicating with the fleet manager, and means for position/time determination. Further, the fleet MDS 611 continuously compiles latitude and longitude position data from the GPS sensor. Latitude and longitude position data is periodically transmitted to the data acquisition system 612 (column 6 lines 15-25) during a predetermined time period (column 6 lines 43, 44).

3. Drawings and pictures can anticipate claims if they clearly show the structure which is claimed. See MPEP 2125.

Further, the display shown in FIG. 1 can be divided into at least two regions or segments such as a raster display segment 530, a vector information display segment 532, and others. The raster display segment 530 includes a first and second axis 534, 536 representing the latitudinal and longitudinal position of the vehicle position, respectively (column 4 lines 59-65).

Thus, the fleet tracking display of Prabhakaran provides a time tag with every positional update from a vehicle.

The vector information table in figure 1 indicates selected geographic and cartographic information retrieved from, for example, the vector database. The vector information table 528 provides intelligent street information such as block number, address information, nearest cross-section of major streets, and the like with reference to the vehicle position. The vector table can also provide information about vehicle speed, vehicle heading, an activity status, a time status, and the like (column 4 lines 49-57)

The device also contains a process (DBFUPDATE) which performs a variety of functions in this system. DBFUPDATE commonly spends most of its time sleeping. It wakes up at selected intervals, preferably regular, and waits indefinitely to acquire a lock on the shared memory. After acquiring the lock, it reads the shared memory header for each vehicle to determine the presence of new positions reports from at least one of the vehicles. If a new report for a vehicle is found, it writes it to the disk database and updates the shared memory header. APIs provided by other modules are used by DBFUPDATE to lock both shared memory and disk database (column 25 lines 13-25).

Lastly, the invention of Prabhakaran discloses an order entry step, which occurs automatically or semi-automatically or the like, in which an input includes a pick-up location and delivery location. The caller may select a particular location by depressing a unique input number, alphanumeric character, or combination thereof, or the like corresponding to the location. The computer aided dispatch system automatically inputs such caller identification, pick-up location, and delivery location features into memory.

From this point (417) The dispatch step transfers 903 dispatch information from a dispatch screen, a dispatch ticket, or a combination of both to the dispatch location. The dispatch step transfers the dispatch information via a phone line, a wide area network, a local area network, a pager, or any other communication means available for the particular application. The dispatch information is sent to the dispatch directly, or at selected time prior to the ready time for pre-scheduled or daily jobs. The dispatch location can include multiple dispatch stations, a single dispatch station, or the fleet mobile unit itself. For example, the dispatch step transfers orders with a downtown address to the downtown dispatcher. Alternatively, the dispatch step transfers orders that require trucks to the truck dispatcher. Alternatively, the dispatch step sends the order to the driver directly via pager, radio unit, cellular telephone, or any other available communication means. (418) In an embodiment using the dispatch screen, the computer aided dispatch system updates the order record with time information such as a dispatch time, a pick-up time, and a delivery time as such times (or in real time). Accordingly, any user with access to the computer aided dispatch system can query a selected order and see the status of the order at a selected time without disturbing any other user (column 35 lines 13-33).

The passages above, when applied to bus applications, translates to scheduling bus stops on the basis of predicted speeds in real time of a particular bus.

The device of Prabhakaran, however, does not explicitly disclose automatically notifying the dispatcher/manager-Prabhakaran ultimately relies on a passive system in

which vehicles are queried, and the vehicles reply with all pertinent status information. Further, when queried, the Device of Prabhakaran on visually updates the status of the vehicle, but does not explicitly provide for an audibal indicator.

4. Jones, however, teaches an advance notification system (10) and method notifies passengers of impending arrival of a transportation vehicle (19), for example, a school bus, at a particular vehicle stop. The system (10) generally includes an on-board vehicle control unit (VCU) (12) for each vehicle (19) and a base station control unit (BSCU) (14) for making telephone calls to passengers in order to inform the passengers when the vehicle (19) is a certain predefined time period and/or distance away from the vehicle stop. The VCU (12) compares elapsed time and/or traveled distance to the programmed scheduled time and/or traveled distance to determine if the vehicle (19) is on schedule. If the vehicle (19) is behind or ahead of schedule, the VCU (12) calls the BSCU (14), which then adjusts its calling schedule accordingly. Significantly, a preset notification time period mechanism (9) in the BSCU (14) permits the passenger to contact the BSCU (14) in order to define a preset notification time period when the passenger is to receive a telephone call prior to arrival of a vehicle (19) at a vehicle stop to thereby indicate impending arrival of the vehicle (19) at the stop (abstract).

Thus, it would be obvious to one of ordinary skill in the art to modify the system of Prabhakaran with the teachings of Jones to present an auditory and visual indicator to the customer upon arrival. Doing so would provide the user with a notification of an action performed, automatically, without user inquiry.

5. As previously noted, claim 5 contains a statement of intended use or field of use (e.g. "for notifying"). These statements of intended use or field of use are essentially method limitations, or statements of intended or desired use. Thus, these claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference.

See MPEP § 2114 which states:

> A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim.
>
> Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. Apparatus claims cover what a device is not what a device does.

As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

Additionally, the terms "configured to" or "arranged to" are considered to be structurally modified statements and are not intended use. Claims amended to include the above listed language may patentably distinguish themselves structurally.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan M. Dager whose telephone number I s 571-270-1332. The examiner can normally be reached on 0830-1800 (M-F).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JD

18 December 2003